

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	6 February 2018	Unclassified		

Report of : David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application for time limited premises licence for Victoria Park, London E3 Ward affected: Bow East
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1.0 Summary

Applicant: **AEG Presents Limited**
Name and
Address of Premises: **Victoria Park**
Grove Rd
London E3

Licence sought: **Licensing Act 2003 (Time Limited)**
The Sale of Alcohol
Provide regulated entertainment

Objectors: **Local Councillors**

2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

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3.0 **Background**

- 3.1 This is an application for a time limited premises licence for Victoria Park, London E3 for the period of 1st February 2018 to 31 December 2022. See **Appendix 1** for the application.
- 3.2 The application includes a number of documents including Event Management Plan, Security and Crime Reduction Plan, Access and Egress Plan, Alcohol Management Plan and Noise Management Plan, Child and Vulnerable Person Plan, Event Safety Plan. The Noise Management Plan is included in **Appendix 2** as the representation made refers to Noise Management. In the interests of public security, all other plans will be available at the hearing.
- 3.3 The hours that have been applied for are as follows:-

Supply of Alcohol:

Monday 1000 – 2215*	Friday 1000 – 2245#
Tuesday 1000 – 2145	Saturday 1200 – 2245
Wednesday 1000 – 2145	Sunday 1200 – 2215
Thursday 1000 – 2145	

* where event days fall on bank holidays the following timings would apply for major events, Bank Holiday Monday: 1200 – 2215.

For minor events, Bank Holiday Monday: 1000-2145

where event days fall on Friday the following timings would apply for major events, Friday: 1200-2245. For minor events, Friday: 1000-2145.

Plays / Films / Indoor sporting events / Boxing or Wrestling/ Live Music / Recorded Music/ Performance of Dance / Anything of a Similar Description:

Monday 1000 – 2230*	Friday 1000 – 2300#
Tuesday 1000 – 2200	Saturday 1200 – 2300
Wednesday 1000 – 2200	Sunday 1200 – 2230
Thursday 1000 – 2200	

* where event days fall on bank holidays the following timings would apply for major events, Bank Holiday Monday: 1200 – 2230.

For minor events, Bank Holiday Monday: 1000-2200

where event days fall on Friday the following timings would apply for major events, Friday: 1200-2300. For minor events, Friday: 1000-2200.

4.0 **Location and Nature of the premises**

- 4.1 The site plan is included as **Appendix 3**.
- 4.2 Maps showing the vicinity are included as **Appendix 4**.

5.0 Licensing Policy and Government Advice

- 5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1st November 2013.
- 5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov.uk. It was last revised in March 2015.
- 5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

6.0 Representations

- 6.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing
- 6.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 6.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 5**.
- 6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.

6.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made jointly by local Councillors.

See Appendices 6

6.9 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Primary Care Trust (Public Health England)
- Home office Immigration Enforcement

6.10 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

6.11 The objections cover allegations of

- Noise while the premise is in use
- Disturbance from patrons leaving the premises on foot
- Disturbance from patrons leaving the premises by car
- Close proximity to residential properties

6.12 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.13 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

7.0 Conditions consistent with Operating Schedule

- 7.1 On an annual basis, the organiser will notify the Licensing Authority and the Responsible Authorities a minimum of 4 months prior to the first event date.
- 7.2 The organiser will present a draft EMOP to the MAG, a minimum of 3 months prior to the first event date.
- 7.3 The organiser will present the Final EMOP to the MAG, a minimum of 1 month prior to the first event date.
- 7.4 After approval of the final EMOP, any further amendments may only be made with the prior written approval of the Chair of the Multi-Agency Planning Group. The organiser will implement the Final approved EMOP.
- 7.5 In conjunction with the Metropolitan Police and other responsible authorities each year the organiser will produce:
 - Crowd Management Plan
 - Alcohol Management Plan
 - Ingress Management Plan
 - Egress Management Plan
 - Security & Crime Reduction Plan
- 7.6 Challenge 25 will be in operation. Anyone who appears to be under 25 must produce ID or a proof of age card to acquire or consume alcohol on the premises.
- 7.7 The organisers will provide anti-crime and drugs awareness advice to ticket holders.
- 7.8 No glass containers will be permitted in the general arena areas.
- 7.9 Any mobile dispensing servers (MDS) will be accompanied by persons not involved directly in serving alcohol. These other persons ('shepherds') will be responsible, jointly with the sellers and security personnel, for ensuring that mobile units comply with the Challenge 25 policy used on site, including preventing proxy sales; and for the prevention of sales to intoxicated customers.
- 7.10 Members of the public will be prevented from removing alcohol from the event site by stewards at the event exit points. Bins will be placed at these locations to allow the disposal of any containers.
- 7.11 A system shall be in place to record refusals on every till point ("station"), All refusals will be either recorded electronically or via a printed register.

Noise conditions can be found within the applicants Sound Management Plan at Pages 5-7

Members may wish to add other appropriate and proportionate conditions in line with the management Plans that have been submitted by the applicant.

8.0 Licensing Officer Comments

8.1 The Live Music Act removed licensing requirements for the following:

- amplified live music and recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
- unamplified live music between 8am and 11pm in all venues.

Further exemptions apply see Section 16.5-16.6 of Section 182 Guidance.

8.2 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

8.3 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.” Therefore, conditions may not be

imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)

- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
 - ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
 - ❖ Mandatory conditions must be imposed (10.27) and censorship avoided (10.17).
 - ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.60)
Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)
- 8.4 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 8.5 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 8.6 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 8.7 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 8.8 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant

responsible authorities.

8.9 In **Appendices 7-9** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified.

9.0 Legal Comments

9.1 The Council's legal officer will give advice at the hearing.

10.0 Finance Comments

10.1 There are no financial implications in this report.

11.0 Appendices

Appendix 1	A copy of the application
Appendix 2	Noise Management Plan
Appendix 3	Site Plan
Appendix 4	Maps of the surrounding area
Appendix 5	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 6	Representations of local Councillors
Appendix 7	Licensing officer comments on Access and egress problems
Appendix 8	Licensing officer comments on Noise when the premises is in use
Appendix 9	Licensing Policy relating to hours of trading.